

**E-Filed 7/05/07 **

NOT FOR CITATION
IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

JEANNIE PANAHIASL and SANDY PIERSON,

Plaintiff,

v.

CREDITCARE, INC., d/b/a CREDIT C.A.R.E.,
INC. and MIKE GURNEY, a/k/a Tom Wright,

Defendants.

Case Number C 04-04479 JF (HRL)

ORDER¹AWARDING
ATTORNEYS'S FEES AND COSTS

[re: docket no. 95]

I. BACKGROUND

Mike Gurney ("Gurney") is the president of CreditCare, Inc. ("CreditCare") a private corporation that engages in debt collection. On October 22, 2004, Plaintiffs Jeannie Panahiasl and Sandy Pierson filed the present claim alleging violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 ("FDCPA"), the California Fair Debt Collection Practices Act, Cal. Civ. Code § 1788, and the California Unfair Business Practices Act, Cal. Bus. & Prof. §

¹ This disposition is not designated for publication and may not be cited.

17200-17205, as well as related common law tort claims.²

On August 26, 2005 the Court granted CreditCare's motion for leave to file a counter-claim against Panahiasl. On August 31, 2005 CreditCare counterclaimed against Panahiasl for breach of contract and fraud. On November 8, 2005 the Court granted the motion of Defendant's counsel to withdraw. On March 8, 2007 the Court entered default judgment in favor of Plaintiffs for \$65,000 plus reasonable attorneys's fees and costs.

II. DISCUSSION

One lawyer and three paralegals worked on this matter on behalf of Plaintiffs. Using the lodestar method, Plaintiffs requests the following fees and costs:

Attorney	Hours	Hourly Rate	Total
Ronald Wilcox	132.4	\$300	\$39,720.00
Paralegals	N/A	\$90-125	\$3,181.50
Costs			\$484.69
Total	N/A		\$43,386.19

With the exception of CreditCare filing of its counterclaim, this action was relatively routine. The motion practice in this case was simple and limited, and three months after CreditCare filed its counterclaim it ceased participating in the litigation. Plaintiffs assert that litigation of this action was made extremely difficult by the Defendant's conduct. Motion 3. Plaintiffs asserts that Defendant refused to provide documents unless their counsel brought a copy machine to the location where Gurney kept the documents, and that Gurney failed to appear at his deposition, despite an order compelling him to do so. *Id.* These failures extended the litigation, but they did not pose complex legal issues.

The Court agrees that \$300 is the appropriate hourly rate in this action for Wilcox. The Court reaches this conclusion on the basis that the action required some motion practice and involved a counterclaim, albeit short-lived. *See e.g. Finkelstein v. Bergna*, 804 F.Supp. 1235, 1243 (N.D. Cal. 1992) (explaining that the appropriate hourly rate is related to the complexity of

² CreditCare has since filed for bankruptcy.

the case); *Solloway v. Allied Interstate*, 06-04814, Case No. C 06-04479 JF (N.D. Cal., November 13, 2006) (determining that \$300 an hour was appropriate compensation for Wilcox).

However, having reviewed the papers filed by the parties and the supporting declarations, the Court concludes that a reduction in the number of hours of work performed by Plaintiffs's counsel is appropriate. The issues Plaintiffs's counsel dealt with in the instant action are identical to those in the *Wyatt* litigation.³ Moreover, after CreditCare's counsel withdrew on November 18, 2005, the activity in the litigation consisted mainly of case management conferences. Accordingly, the Court will reduce Wilcox's hours by twenty-five percent. In light of these adjustments, the Court awards the following fees and costs:

Attorney	Hours	Hourly Rate	Total
Ronald Wilcox	99.3	\$300	\$29,790.00
Paralegal	N/A	\$90-125	\$3,181.50
Costs ⁴			\$484.69
Total	N/A		\$33,456.19

III. ORDER

Good cause therefor appearing, IT IS HEREBY ORDERED that Plaintiffs be awarded \$33,456.19 for attorneys's fees and costs.

DATED: July 5, 2007.


 JEREMY FOGEL
 United States District Judge

³ *Wyatt v. CreditCare, Inc.*, Case No. C 04-03681 JF (N.D. Cal. June 29, 2007)

⁴ The Court has reviewed the paralegal fees and costs sought by Plaintiff and finds them appropriate.

1 This Order has been served upon the following persons:

2 Ronald Wilcox: ronaldwilcox@post.harvard.edu

3
4 Notice has been delivered by other means to:

5 CreditCare, Inc.
17760 Monterey Rd., #E
6 Morgan Hill, CA 95037